

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 03 PORT AU PRINCE 002942

SIPDIS

SOUTHCOM ALSO FOR POLAD
WHA ALSO FOR USOAS

E.O. 12958: DECL: 11/27/2015

TAGS: [PGOV](#) [PHUM](#) [PREL](#) [HA](#)

SUBJECT: HAITI: UPDATE ON ARRESTS OF TWO TOP POLICE
COMMANDERS IN CONNECTION WITH MARTISSANT SOCCER DEATHS

REF: PAP 2785

Classified By: CDA ERNA KERST, REASONS 1.4(B) AND (D).

1. (C) Summary: Director General of the Judicial Police (DCPJ) completed the criminal investigation into the August 20 soccer match operation in Martissant and submitted the report to the Port-au-Prince State Prosecutor's office on November 7. The complete report contains over 900 pages of interviews and evidence and directly names former Western Departmental Director (DDO) Carlo Lochard as the principal accomplice of the illegal police operation which turned deadly. Both Lochard and former Director of the Administrative Police (DCPA) Renan Etienne answered questions before investigating judge Peres Paul on November 22 and were returned to the Annex of the National Penitentiary in Pacot. Lochard supporters, comprised mostly of decommissioned police officers, have taken to the streets in recent weeks to call for his release. Also, Pierre Esperance of the National Network of Defenders of Human Rights (RNDDH) told poloff that he thinks Lochard cronies in the Justice Ministry may be pressuring investigating judge Paul to release him. Haitian National Police (HNP) Director General Mario Andresol won a huge victory in the battle against impunity by arresting Lochard and Etienne but he will continue to require our support to fight impunity within the ranks of the force. End Summary.

DCPJ's Report

2. (U) Judicial Police Director (DCPJ) Michael Lucius transmitted the final report to State Prosecutor for Port-au-Prince Alce Emame on November 7. The summary of the facts were in line with those outlined in the internal Inspector General's report (reftel). The conclusions of the DCPJ's criminal investigation enumerates the specific acts undertaken illegally and in violation of the HNP code of conduct which amounted to criminal negligence on the part of the former DDO and DCPA. The DCPJ's report, however, lays direct blame on Carlo Lochard for having ordered and planned the illegal operation. Among other conclusions the main points of the report are:

-- The operation by the police in Martissant at St. Bernadette's Park was conducted outside of all legal boundaries;

-- From beginning to end, DDO Lochard failed to follow proper steps in HNP procedure. Therefore, Carlo Lochard is the principal in all acts committed by the police during the August 20, 2005 operation in Martissant;

-- DCPA Renan Etienne is also implicated for his failure to advise Lochard against undertaking this operation and for providing Lochard with the additional reinforcements from the specialized Crowd Control (CIMO) and SWAT Units. Etienne also failed to provide an honest report of the incident to DG Andresol;

-- As a result, eight (8) people were killed, five (5) of which were recovered at the State University Hospital's morgue. Of the five at the morgue, four (4) died as a result of gunshot wounds from HNP weapons;

-- Four (4) people were injured as a result of machete wounds.

Lochard's Lawyer Pleads His Case

3. (C) Martine Chevalier, a member of Carlo Lochard's legal team, met with poloff on November 17 to discuss his case. Chevalier is a lawyer with the law firm headed by Carlo Lochard's brothers, Guy and Jean Lochard. In Lochard's defense, Chevalier said that Lochard was only doing his job in attempting to bring security to the population and if he was guilty of anything it would be an "administrative error" for failure to file the appropriate requests and reports to DCPA Etienne before and after the operation. She characterized the Inspector General's internal report as favorable to Lochard while placing the onus squarely on Etienne's shoulders for sending the specialized units without the proper paperwork (according to the HNP code of conduct, only the DCPA can authorize the deployment of specialized

units like SWAT and CIMO).

14. (C) Chevalier further argued that Lochard's arrest was illegal and arbitrary because it was executed after 8 p.m. in the evening and without a warrant (according to Haitian law, arrests cannot be made between 8 p.m. and 5 a.m.). The firm filed a request with the chief judge of the court of first instance to have Lochard released based on those grounds (NOTE: The letter was also signed by other members of the legal team, including the head of the bar association of Port au Prince (and former candidate for Minister of Justice Gervais Charles), former Ministers of Justice Jean Joseph Exume and Garry Lissade. END NOTE). Once investigating judge Peres Paul has completed his investigation, he will recommend whether to release Lochard on those grounds or to hold him for trial. Even though she does not represent Etienne, Chevalier conveyed Etienne's speculation that Andresol arrested him and Lochard to settle a personal score with them for having participated in his arrest under Aristide in 2002. She said that Lochard did not share that sentiment. Chevalier added that Lochard is a humble, common "man of the people" who still lives at home with his mother. She pointed to the recent demonstrations by supporters calling for his release as evidence of his popularity (NOTE: Most of the demonstrators are decommissioned police officers Andresol recently fired for participating in corruption. END NOTE).

HR Community's role in the Investigation

15. (C) Director of the National Network of Defenders of Human Rights (RNDDH) Pierre Esperance told poloff November 18 that he was pleased that DCPJ Lucius had completed his investigation. Esperance said that once his organization RNDDH issued its report on Martissant in September, and in concert with the Embassy's continued pressure for the police to conduct an investigation, the DCPJ asked for RNDDH's assistance in interviewing witnesses and gathering evidence. Esperance further lauded DG Andresol's courage in following through on the Etienne and Lochard's arrest. Esperance recalled the phone call Andresol made to him on the morning of November 4, the day of the arrests. According to Esperance, Andresol wrestled with the decision he faced on whether to arrest these two high-ranking HNP officials and the implications for his personal security. Esperance said he advised him to take the strong stand to demonstrate his ability to fight impunity at every level in the HNP.

Lochard's Possible Release?

16. (C) Esperance shared with poloff his reservations about the success of the judicial process against the two officers, mainly Lochard. Esperance believes that Lochard has a strong crony network in the judicial system that will act in concert to get him released from jail. In addition to the high-powered legal team compiled by his brothers, which includes former Ministers of Justice, he also has a strong ally of the current Minister of Justice's chief advisor Carlos Hercule (NOTE: Before arriving at the Justice Ministry in July 2005, Hercule was advisor to the head of the Port-au-Prince Bar Association Gervais Charles. Charles is currently a member of Lochard's legal team. END NOTE). Esperance noted that since Etienne and Lochard's arrests, Minister of Justice Henri Dorleans has been noticeably silent on their cases. He does not think that the Minister will intervene on behalf of Lochard, but he feels strongly that Hercule might place pressure on the investigating judge to call for Lochard's release. He also pointed out that Lochard remains the only officer out of the 15 who wasn't decommissioned as a member of the HNP and he is technically still a member of the force.

17. (C) Esperance also characterized investigating judge Peres Paul as largely corrupt and a judge who only takes a case "where money is involved" (Chevalier claimed that Paul initially refused to accept the case because he did not have a vehicle available to help him in conducting the investigation. A car was eventually made available to him and he agreed to take the case.) As part of the judge's investigation, Lochard and Etienne answered questions before the judge on November 21 and were returned to the Pacot Prison Annex on the same day. As of November 29, Judge Peres Paul had completed his interviews of all but 4 of the 15 who are currently in prison in relation to the Martissant operation.

18. (U) On a positive note, the government has publicly shown support for Andresol. During a meeting with poloff on November 23, Secretary of State for Public Security David Bazile asked for the embassy's continued support for the Justice Ministry's efforts at professionalizing the HNP. In a November 24 statement, the IGOH's Council of Ministers reiterated its determination to professionalize the HNP and called on the DG to continue to respect the rules and principles governing the force. The communiqu also stated that the judicial authorities have the sole competence to

determine the guilt or innocence of an officer. In a November 28 press conference, SRSG Valdes also voiced support for further HNP reform and specifically congratulated the efforts of DG Andresol.

19. (C) Comment: Andresol may have won this battle but the war on impunity within the HNP is far from over. If Esperances's assertions hold true and Locharde goes free, Andresol's actions will have been in vain with risk to future HNP professionalization efforts and an even greater risk to his own life. We will continue to express our support for Andresol and his police reform measures.

KERST